

AMENDED IN SENATE JULY 12, 1999
AMENDED IN ASSEMBLY APRIL 19, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1655

Introduced by ~~Committee on Labor and Employment~~
(~~Steinberg (Chair), Floyd, Gallegos, Migden, and Shelley~~)
Assembly Member Hertzberg

March 9, 1999

An act to amend Section 62.9 of the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1655, as amended, ~~Committee on Labor and Employment~~ *Hertzberg*. Occupational safety and health standards: variances: *assessments*.

Existing law authorizes employers to apply to the Occupational Health and Safety Standards Board (the board) for a permanent variance from an occupational safety and health standard, order, special order, or portion thereof, upon a showing of an alternate program, method, practice, means, device, or process that will provide equal or superior safety to employees. Existing law requires the board to issue those variances, after opportunity for an investigation, if it determines on the record, after an investigation where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that

certain conditions relating to the safety and health of employees are met.

This bill would require the Occupational Safety and Health Standards Board, on or before April 1, 2000, to report to the Legislature on the nature and the extent of investigations conducted pursuant to those provisions.

Existing law authorizes the levy and collection of assessments from employers to fund the Cal-OSHA targeted inspection and consultation programs. This authorization will be repealed on January 1, 2000, unless extended by statute.

This bill would delete the January 1, 2000, repeal date for the above authorization for employer assessments.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. On or before April 1, 2000, the
2 Occupational Safety and Health Standards Board shall
3 report to the Legislature on the nature and the extent of
4 investigations conducted pursuant to subdivision (b) of
5 Section 143 of the Labor Code.

6 SEC. 2. *Section 62.9 of the Labor Code is amended to*
7 *read:*

8 62.9. (a) (1) The director shall levy and collect
9 assessments from employers in accordance with this
10 section. The total amount of the assessment collected
11 shall be the amount determined by the director to be
12 necessary to produce the revenue sufficient to fund the
13 programs specified by Section 62.7, except that the
14 amount assessed in any year for those purposes shall not
15 exceed 50 percent of the amounts appropriated from the
16 General Fund for the support of the occupational safety
17 and health program for the 1993–94 fiscal year, adjusted
18 for inflation. The director also shall include in the total
19 assessment amount the department's costs for
20 administering the assessment, including the collections
21 process and the cost of reimbursing the Franchise Tax
22 Board for its cost of collection activities pursuant to
23 subdivision (c). ~~The~~

1 (2) *The* insured employers and private sector
2 self-insured employers that, pursuant to subdivision (b),
3 are subject to assessment shall be assessed, respectively,
4 on the basis of their annual payroll subject to premium
5 charges or their annual payroll that would be subject to
6 premium charges if the employer were insured, as
7 follows:

8 (A) An employer with a payroll of less than two
9 hundred fifty thousand dollars (\$250,000) shall be
10 assessed one hundred dollars (\$100).

11 (B) An employer with a payroll of two hundred fifty
12 thousand dollars (\$250,000) or more, but not more than
13 five hundred thousand dollars (\$500,000), shall be
14 assessed two hundred dollars (\$200).

15 (C) An employer with a payroll of more than five
16 hundred thousand dollars (\$500,000), but not more than
17 seven hundred fifty thousand dollars (\$750,000), shall be
18 assessed four hundred dollars (\$400).

19 (D) An employer with a payroll of more than seven
20 hundred fifty thousand dollars (\$750,000), but not more
21 than one million dollars (\$1,000,000), shall be assessed six
22 hundred dollars (\$600).

23 (E) An employer with a payroll of more than one
24 million dollars (\$1,000,000), but not more than one
25 million five hundred thousand dollars (\$1,500,000), shall
26 be assessed eight hundred dollars (\$800).

27 (F) An employer with a payroll of more than one
28 million five hundred thousand dollars (\$1,500,000), but
29 not more than two million dollars (\$2,000,000), shall be
30 assessed one thousand dollars (\$1,000).

31 (G) An employer with a payroll of more than two
32 million dollars (\$2,000,000), but not more than two
33 million five hundred thousand dollars (\$2,500,000), shall
34 be assessed one thousand five hundred dollars (\$1,500).

35 (H) An employer with a payroll of more than two
36 million five hundred thousand dollars (\$2,500,000), but
37 not more than three million five hundred thousand
38 dollars (\$3,500,000), shall be assessed two thousand dollars
39 (\$2,000).

1 (I) An employer with a payroll of more than three
2 million five hundred thousand dollars (\$3,500,000) shall
3 be assessed two thousand five hundred dollars (\$2,500).

4 (b) (1) In the manner as specified by this section, the
5 director shall identify those insured employers having a
6 workers' compensation experience modification rating of
7 1.25 or more, and private sector self-insured employers
8 having an equivalent experience modification rating of
9 1.25 or more as determined pursuant to subdivision (e).

10 (2) The assessment required by this section shall be
11 levied annually, on a calendar year basis, on those insured
12 employers and private sector self-insured employers, as
13 identified pursuant to paragraph (1), having the highest
14 workers' compensation experience modification ratings
15 or equivalent experience modification ratings, that the
16 director determines to be required numerically to
17 produce the total amount of the assessment to be
18 collected pursuant to subdivision (a).

19 (c) The director shall collect the assessment from
20 insured employers as follows:

21 (1) Upon the request of the director, the Department
22 of Insurance shall direct the licensed rating organization
23 designated as the department's statistical agent to
24 provide to the director, for purposes of subdivision (b),
25 a list of all insured employers having a workers'
26 compensation experience rating modification of 1.25 or
27 more, according to the organization's records at the time
28 the list is requested, for policies—~~incepting~~ *commencing*
29 the year preceding the year in which the assessment is to
30 be collected.

31 (2) The director shall determine the annual payroll of
32 each insured employer subject to assessment from the
33 payroll that was reported to the licensed rating
34 organization identified in paragraph (1) for the most
35 recent period for which one full year of payroll
36 information is available for all insured employers.

37 (3) On or before September 1 of each year, the
38 director shall determine each of the current insured
39 employers subject to assessment, and the amount of the
40 total assessment for which each insured employer is

1 liable. The director immediately shall notify each insured
2 employer, in a format chosen by the insurer, of the
3 insured's obligation to submit payment of the assessment
4 to the director within 30 days after the date the billing was
5 mailed, and warn the insured of the penalties for failure
6 to make timely and full payment as provided by this
7 subdivision.

8 (4) The director shall identify any insured employers
9 that, within 30 days after the mailing of the billing notice,
10 fail to pay, or object to, their assessments. The director
11 shall mail to each of these employers a notice of
12 delinquency and a notice of the intention to assess
13 penalties, advising that, if the assessment is not paid in full
14 within 15 days after the mailing of the notices, the
15 director will levy against the employer a penalty equal to
16 25 percent of the employer's assessment, and will refer
17 the assessment and penalty to the Franchise Tax Board
18 for collection. The notices required by this paragraph
19 shall be sent by United States first-class mail.

20 (5) If an assessment is not paid by an insured employer
21 within 15 days after the mailing of the notices required by
22 paragraph (4), the director shall refer the delinquent
23 assessment and the penalty to the Franchise Tax Board
24 for collection pursuant to Section 19290.1 of the Revenue
25 and Taxation Code.

26 (d) The director shall collect the assessment directly
27 from private sector self-insured employers. The failure of
28 any private sector self-insured employer to pay the
29 assessment as billed constitutes grounds for the
30 suspension or termination of the employer's certificate to
31 self-insure.

32 (e) The director shall adopt regulations implementing
33 this section that include provision for a method of
34 determining experience modification ratings for private
35 sector self-insured employers that is generally equivalent
36 to the modification ratings that apply to insured
37 employers and is weighted by both severity and
38 frequency.

39 (f) The director shall determine whether the amount
40 collected pursuant to any assessment exceeds

1 expenditures, as described in subdivision (a), for the
2 current year and shall credit the amount of any excess to
3 any deficiency in the prior year's assessment or, if there
4 is no deficiency, against the assessment for the
5 subsequent year.

6 ~~(g) This section shall remain in effect only until~~
7 ~~January 1, 2000, and as of that date is repealed, unless a~~
8 ~~later enacted statute, that is enacted before January 1,~~
9 ~~2000, deletes or extends that date.~~

